

Division of Securities  
Utah Department of Commerce  
160 East 300 South  
P.O. Box 146760  
Salt Lake City, Utah 84114-6760  
Telephone: 801 530-6600  
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**BEFORE THE DIVISION OF SECURITIES  
OF THE DEPARTMENT OF COMMERCE  
OF THE STATE OF UTAH**

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**IN THE MATTER OF:**

KARON C. COOK, CRD#1036029  
RAYMOND JAMES FINANCIAL  
SERVICES, INC., CRD #6694;

**Respondents.**

**STIPULATION AND CONSENT  
ORDER AS TO RAYMOND JAMES  
FINANCIAL SERVICES, INC.**

Docket No. SD-05-0060  
**Docket No. SD-05-0061**

The Utah Division of Securities ("Division"), by and through its Director of Licensing, George Robison, and Raymond James Financial Services, Inc., CRD #6694 ("RJFS") hereby stipulate and agree as follows:

1. RJFS and its agent Karon C. Cook ("Cook") were the subject of an examination conducted by the Division into allegations that they violated the Utah Uniform Securities Act ("Act"), Utah Code Ann. § 61-1-1, *et seq.*
2. On September 19, 2005, the Division filed a Petition for Order Revoking License and/or Barring Licensee against Cook; and for Order of Censure; Suspension of License and Imposition of Fine against RJFS. The action against Cook was resolved by Stipulation

and Consent Order.

3. In lieu of proceeding with the formal action, RJFS and the Division have agreed to settle this matter by way of this Stipulation and Consent Order ("Order"). If entered, the Order will fully resolve all claims the Division has against RJFS pertaining to this matter.
4. RJFS admits the jurisdiction of the Division over RJFS and over the subject matter of this action.
5. RJFS waives any right to a hearing to challenge the Division's evidence and present evidence on RJFS's behalf.
6. RJFS has read the Order, understands its contents and submits to this Order voluntarily. No promises or threats have been made by the Division, nor by any representative of the Division, to induce RJFS to enter into this Order, other than as described in this Order.
7. RJFS is represented by attorney Philip A. Feigin and is satisfied with the legal representation it has received.

#### **I. FINDINGS OF FACT**

The Division makes the following findings:

##### **Background**

8. RJFS was incorporated in the State of Florida on September 12, 1973.
9. RJFS became licensed as a broker-dealer in the State of Utah on April 21, 1983 and currently has 20 branch offices in Utah.
10. Karon Cook ("Cook") was associated with RJFS as a broker-dealer agent and general securities principal from January 1989 through February 2005. Cook is no longer licensed in any jurisdiction.

11. Cook failed to disclose certain outside business activities to RJFS and consequently was terminated from RJFS in February 2005.
12. Cook has taken and passed the Series 7, General Securities Representative Examination; the Series 24, General Securities Principal Examination; the Series 63, Uniform Securities Agent State Law Examination; and the Series 65, Uniform Investment Adviser State Law Examination.
13. On February 2, 2005, M.W. filed a complaint with the Division alleging that Cook had sold him promissory notes.
14. The Division's examination into M.W.'s complaint revealed that while employed by RJFS, Cook brokered loans for RJFS clients, borrowed money from a client, held herself out as an unlicensed investment adviser, and served as a trustee for client accounts, without disclosing such activities or obtaining the prior approval of RJFS. Cook also filed false documents with the Division.

**Unregistered Securities**

15. In the mid to late nineties, Cook approached a client, M.W., about entering into some loan transactions, and on five separate occasions brokered loans between M.W. and other clients of Cook.
16. The five loans were made in the late nineties and early 2000. Cook represented to M.W. that the loans were all secured by real estate. Cook did not provide documentation of these loans to M.W. but two of the loans were used for mortgages for C. and G. A. (\$63,800) and N.W. (\$33,000).

17. A sixth loan transaction in the amount of \$50,000 was completed on July 10, 2000 and was signed by Cook as president for The Financial Resource Group, Inc. ("Financial Resource Group").
18. Cook led M.W. to believe that the sixth loan was a loan to her personally. M.W. stated he later discovered that Cook lent the money from the sixth loan to other people. A promissory note memorializing the loan showed that this loan was not secured.
19. On April 30, 2002 M.W. and Cook entered into an "operating partnership with regard to the \$307,000 of secured loans held by '[W] Family Trust 2'" ("Family Trust"). Some of the five loans M.W. made through Cook were included in this \$307,000 amount. The operating agreement was signed by M.W. and Cook. The agreement states that "these loans are represented to be (original value): [C. and G. A.] (mortgage) \$63,800; [N. W.] (mortgage) \$33,000; Financial Resource Group (note) \$50,000; [D. M.] (note) \$150,000." The agreement further stated that "Karon guarantees to: Bring all loans current by Oct. 31, 2002 [and] Refinance [C. and G.A.] & [N.W.] by Oct. 31, 2002."
20. The operating agreement also stated that "[M.W.] guarantees to: Pay a performance fee of \$7,000 to Karon upon signing this agreement; Will assume 2<sup>nd</sup> mortgages for any outstanding balances that may occur after refinancing; Interest rates on 2<sup>nd</sup> mortgages assumed by [Family Trust] will be determined by Karon Cook; [M.W.] & Karon will divide the interest income in half on the [C. and G.A.] and [N.W.] loans should a 2<sup>nd</sup> mortgage occur after refinancing; [and] [M.W.] & Karon will divide the principal of all the [C. and G. A.] and [N.W.] loans should a 2<sup>nd</sup> mortgage occur after refinancing."

21. According to M.W., the \$150,000 note attributed to D. M. is not a loan that Cook brokered. Apparently, this was a separate loan between D.M. and M.W. M.W. also stated that the \$7,000 “performance fee” he paid to Cook was for her to take the time to attempt collection of M.W.’s other past loans that Cook brokered.
22. On November 8, 2002, M.W. and Cook signed a handwritten promissory note for \$113,800. This note was a re-issuance of the \$50,000 note dated July 10, 2000 and the \$63,800 C. and G.A. debt from the Family Trust operating agreement. The promissory note evidences that this note was not secured.
23. On January 14, 2003, Cook sent M.W. an update on the C. and G.A. refinance along with amortization schedules and other transaction reports for the original C. and G.A. loan transaction, which occurred on or about December 21, 1999.
24. The transaction reports show that Cook, through Cook & Associates, and M.W. were splitting the C. and G.A. payments.
25. Cook never registered or notice-filed any of the transactions discussed above with the Division.

#### **Selling Away<sup>1</sup>**

26. Cook engaged in securities transactions outside the control and supervision of her broker-dealer and without giving notice of those securities transactions to her broker-dealer.  
  
These transactions included:

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<sup>1</sup>Selling away is the act of effecting securities transactions that are not recorded on the regular books or records of an agent’s broker-dealer (i.e., the transaction is executed outside or away from the broker-dealer). If a broker-dealer agent is engaged in selling away, the broker-dealer is unable to properly monitor and supervise these activities to ensure compliance with applicable securities laws.

- a. Issuing at least two promissory notes to M.W. and taking \$50,000 from M.W. for those notes;
  - b. Selling an investment contract in the form of an operating agreement to the Family Trust;
  - c. Writing two checks from the Family Trust account in the amounts of \$15,027 and \$2,500 and sending them to an account at ACAP Financial, a broker-dealer unrelated to RJFS, which moneys were used to purchase securities.
27. RJFS's annual compliance questionnaires and certification pages signed by Cook require a financial advisor ("FA") to acknowledge that the FA understands she cannot engage in private securities transactions without prior written approval of an officer of RJFS, cannot hold out any name other than RJFS as offering securities, and that the FA has read and understands the RJFS compliance manual.
28. The questionnaires specifically define the term "security" as including promissory notes.
29. If a question is answered in the negative, the FA is required to provide an explanation on the certification page. RJFS indicated that if no explanation was given as required to a "no" answer, the question was considered to be answered in the affirmative.
30. None of Cook's certification pages have explanations for a "no" answer to the questions concerning engaging in private securities transactions without prior approval of the firm. Thus, Cook answered in the affirmative that she understood she could not engage in any private securities transaction without prior written approval of an officer of RJFS and she had to transact all securities business through RJFS, unless acknowledged and agreed upon by RJFS.

31. In a letter dated June 9, 2005, RJFS confirmed to the Division that Cook “was not approved for any private securities transactions, nor did she request approval to do so.”

**Borrowing From A Client**

32. On July 10, 2000, Cook, as president for Financial Resource Group, borrowed \$50,000 from M.W., evidenced by a promissory note. On November 8, 2002, Cook and M.W. signed a handwritten promissory note for \$113,800, which included a renewal of the \$50,000 amount.
33. At the time these notes were signed, M.W. was one of Cook’s clients at RJFS.
34. RJFS’s annual compliance questionnaires and signed certification pages required Cook to acknowledge that she understood she was not permitted to loan, borrow or co-invest with a client without firm approval.
35. None of Cook’s certification pages have explanations for a “no” answer to the question that she understood she was not to borrow money from a client. Thus, Cook answered in the affirmative that she understood she was not permitted to borrow from a client without written approval of an RJFS executive officer.
36. In a letter dated June 9, 2005, RJFS stated to the Division that Cook “was not approved to participate in any loans, either as lender or borrower, nor did she request approval to do so.”

**Custody**

37. On April 19, 2001, an updated *New Account Form* was completed for the Family Trust account. This form was updated to list Cook and M.W.’s uncle, L.W. as trustees of the Family Trust.

38. The updated *New Account Form* shows a signature for Cook (as client and as financial advisor) and L.W.; however, Cook signed L.W.'s name on the form. Cook's branch manager, Kirk Englehardt ("Englehardt")<sup>2</sup> also signed the form approving the update. There appear to be initials in the upper left-hand corner indicating review of the form by another individual.
39. On April 19, 2001, an updated *Elite Investment Account Application* also was completed for the Family Trust. This form was updated to list Cook as the trustee of the Family Trust. The form is signed by Cook as both account owner and financial advisor. Englehardt also signed the form approving the update.
40. On October 22, 2001, a new *Trustee Certification* form was completed. This certification form lists Cook and L.W. as the trustees on the Family Trust.
41. The form also indicates account statements should only be sent to Cook. The form is signed by Cook and L.W.; however, Cook signed L.W.'s name on the form. While no principal's signature appears on the form, there appear to be initials in the upper left-hand corner evidencing review by another individual.
42. The Division obtained copies of certain checks written on the Family Trust account. In at least four instances, Cook, and only Cook, signed checks withdrawing funds from the account.
43. A review of Cook's Utah client list provided by RJFS showed that in addition to being a trustee on the Family Trust account, Cook was listed as the trustee on three other client accounts: the J. T. account, the E.C. account, and the J. P. Family account.

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<sup>2</sup>Englehardt is deceased.



44. RJFS's annual compliance questionnaires and signed certification pages required Cook to indicate that she understood:
- a. she could not act as a custodian of securities, stock powers, money, or other property belonging to a client;
  - b. she could not act in a custodial or trustee capacity for a person who was not a family member unless specific approval was given by an executive officer of the firm; and
  - c. that all client accounts, securities and funds had to remain segregated at all times from any account that she owned or over which she had control.
45. Other than a 1998 certification page, Cook answered no to the above questions and provided no explanation as to why she answered no. Thus, Cook answered in the affirmative that she understood she could not act as a custodian of securities, stock, money, or any other property belonging to a client (other than immediate family), she could not act in a custodial, trustee, or executor capacity for a person who was not a family member unless specific approval were given by an executive officer of the firm, and all client accounts, securities, and funds had to remain segregated at all times from any account that she owned or over which she had control.
46. In addition, RJFS's compliance manual specifically prohibits a financial advisor from acting as a trustee, co-trustee, successor trustee, executor of an estate, or exercising power of attorney for a client unless specific approval has been obtained from an executive officer of the firm.

47. In a letter dated June 29, 2005, RJFS stated to the Division "...neither the compliance department nor any officer of the firm received notification or request for approval for Ms. Cook to act as trustee on any of her client's [sic] accounts. As such, no approval from the compliance department or any officer of the firm was obtained."

**Outside Business Activities**

48. RJFS provided copies of two outside business activity forms that Cook had submitted to the firm.
49. The first outside business activity form stated that Cook was requesting approval "to continue an existing outside activity relationship...Effective since 6/1/84." Cook indicated that the company's name was Grasco Properties and the nature of the business was "real estate management." Cook listed herself as the president of this company.
50. The second outside business activity form stated that Cook was requesting "to continue an existing outside activity relationship...Effective since 5/1/87." Cook indicated that the company's name was Focus Publications and the nature of the business was "software development and forms." Cook listed herself as the president of this company.
51. Cook was in fact, however, involved in at least seven other businesses while employed at RJFS, including Financial Resource Group (the company under which Cook operated her RJFS business), Cook & Associates Financial Services (her purported investment advisory business), GMT Investments, Hilow Corporation, MK Enterprises, Blue Heron Enterprises, and Ibis Enterprises.

52. On a 2001 Satellite Office Checklist, Cook indicated she also was involved with helping Drake University create insurance exams for the state of Utah. Additionally, Cook's Form U4<sup>3</sup> disclosed Cook was a 25% interest owner of two fourplexes.
53. In addition to Grasco Properties and Focus Publications, RJFS was aware of four of the above business activities: Financial Resource Group; Cook & Associates; Drake University; and the fourplex ownership. However, RJFS was unable to provide *Request to Engage in Outside Activity* forms for these four outside business activities.
54. Pursuant to RJFS's annual compliance questionnaires and signed certification pages, Cook was required to acknowledge that she understood her obligation to disclose all outside business activities, and obtain approval from the compliance department for such activities, and also amend her Form U4 when any information changed regarding her outside business activities.
55. Cook's certification page for the 2004 questionnaire indicates that she answered "no" to the question of whether she knew she was required to get firm approval for her outside business activities. Cook's explanation for her answer was "we have attempted to get info from prior branch on all forms on file. RJFS is helping us with what outside business activities have been approved."
56. None of the other certification pages have explanations for a "no" answer to the above questions. Thus, with the exception of her "no" answer to question 2 on the 2004 questionnaire, Cook answered in the affirmative that she understood that she had an

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<sup>3</sup>The Form U4, Uniform Application for Securities Industry Registration or Transfer, is a document used to apply for a license as a securities agent. The document is filed with the Division and also provided to RJFS.

ongoing legal obligation to amend her Form U4 when her outside business activity information changed, and that she had disclosed all outside business activities and received RJFS's approval for each outside business activity.

57. RJFS's compliance manual also specifically stated that all outside business activities had to be disclosed and approved by the branch manager and the compliance department in writing.

**False Form U4**

58. As stated above, Cook had been involved in at least 11 outside business activities during her employment with RJFS. At the time of Cook's termination from RJFS in February 2005, the only outside business activity disclosed on Cook's Form U4 was her ownership in the two fourplexes.
59. Cook filed for bankruptcy on February 28, 1991, approximately two years after Cook became employed with RJFS. Cook's debts were discharged on August 5, 1991 and the case was closed on February 6, 1992.
60. A bankruptcy is required to be disclosed on the Central Registration Depository (CRD) if it occurred within the past 10 years prior to the CRD filing. The disclosure summaries on Cook's CRD record show no past or current disclosure of any bankruptcy. Despite her obligation to report the bankruptcy, Cook failed to do so.

### **Unlicensed Investment Adviser**

61. Among records maintained by RJFS, an April 1, 2002 Satellite Office Checklist contained a copy of Cook's business card that described Cook and/or Cook & Associates as a "Registered Investment Advisor."
62. A November 2004 Satellite Office Checklist contained a copy of a Yellow Page listing in which Cook & Associates was listed under "Financial Planning Consultants."
63. Cook has never been licensed as an investment adviser or investment adviser representative with RJFS or any other entity.
64. In response to RJFS's annual compliance questionnaires regarding licensing requirements, Cook answered in the affirmative that she understood that if she was charging clients fees for investment advice and/or holding herself out as a financial planner and receiving commissions or fees, she was required to license as an investment adviser or investment adviser representative.
65. Furthermore, Cook answered in the affirmative that she understood that in order to receive fees for advisory services she had to be licensed in the state where her office was located.
66. With regard to financial planning, RJFS's compliance manual states that "a person must be registered with an investment adviser if he or she holds him or herself out as a financial planner, or in the business of financial planning and is compensated for the service."

67. Cook's 2001, 2002, and 2004 certification pages showed that she understood that she was responsible for reading and understanding the RJFS compliance manual.

**Failure to Supervise**

68. With respect to supervisory structure, RJFS's compliance manual in place at the time specified that the compliance department was responsible for branch auditing, monitoring account activity, reviewing exception reports, advertising review, and reviewing compliance with all applicable rules and regulations.

**Audit Discrepancies**

69. RJFS's compliance manual at the time required the home office to audit satellite offices once every two years and the branch manager to audit a satellite location once every six months.
70. A review of the RJFS's audits conducted at Cook's office from 1999-2004 show that the home office failed to audit Cook within two years of a November 13, 2001 audit as required by the compliance manual.
71. Cook's branch manager also failed to audit Cook's office within six months on four occasions. In one case the branch manager was approximately 11 months late in conducting the audit.
72. The audits also revealed numerous red flags that RJFS failed to follow-up on, including but not limited to:
- a. failing to investigate Cook's outside business activities, which could have led RJFS to discover Cook was engaging in securities transactions without prior approval of an RJFS executive;

- b. Cook holding herself out as an investment adviser;
  - c. failure to investigate payments that Cook had made to M.W., which could have led RJFS to discover Cook was engaging in securities transactions without prior approval of an RJFS executive; and
  - d. failure to investigate a significant drop in Cook's annual commission revenue from \$37,030.04 for the previous calendar year to only \$1,756.50 as of November 2004.
73. With respect to Cook's outside business activities, starting in December 1999, Cook's Satellite Office Checklists and RJFS's Compliance Memoranda show that RJFS knew or should have known Cook was engaging in outside business activities through Cook & Associates.
74. Despite numerous red flags, including audit notations regarding Financial Resource Group and Cook & Associates, payments that RJFS knew or should have known Cook & Associates had made to M.W. and the fact that Cook was acting as a trustee on four RJFS client accounts, RJFS performed no due diligence with regard to these entities and failed to supervise Cook's activities involving these entities.

**False Form U4**

75. Although RJFS knew of at least six of Cook's outside business activities, it submitted Cook's Form U-4 disclosing only one such activity.

### **Supervisory Deficiencies**

76. Based upon the Division's examination findings as set forth above, RJFS's checklist audit program and its supervision was inadequate to detect and prevent violations of the securities laws.
77. In addition, although RJFS conducted an associated person account review, this review did not adequately cover client accounts for which the FA may have been acting as custodian, trustee or executor.
78. Rule 3010 of the NASD Conduct Rules requires each member to establish and maintain a system to supervise the activities of each registered representative and associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable NASD Rules.

### **Books and Records**

79. RJFS knew of at least six of Cook's outside business activities yet was only able to produce two Request to Engage in Outside Business Activity forms for two outside business activities that commenced prior to Cook's employment.
80. In a telephone conversation with the Division on June 29, 2005 RJFS stated that it did not have Cook's 2003 certification page on record.
81. Except for Cook's 2004 compliance questionnaire, RJFS was not able to provide any of the actual questionnaires completed by Cook.

## **II. CONCLUSIONS OF LAW**

82. RJFS failed reasonably to supervise its agent Cook, warranting sanctions under § 61-1-6(2)(j) of the Act by:



- a) failing to investigate Cook's outside business activities;
- b) failing to conduct timely audits of Cook's branch;
- c) failing to follow-up on red flags on its audit checklists and failing to conduct due diligence with regard to Cook's known outside activities; and
- d) failing to investigate Cook's holding herself out as a "Registered Investment Advisor" when she was not licensed to do so.

83. RJFS violated R164-5-1(C) of the UAC, which states that "...each broker-dealer licensed or required to be licensed under this Act shall make, maintain and preserve books and records in compliance with SEC Rules 17a-3...[and] 17a-4." RJFS violated Rule R164-5-1(C) of the UAC by failing to obtain and/or maintain certain of Cook's outside business activity forms, Cook's 2003 certification page and the actual compliance questionnaires completed by Cook, except for the 2004 questionnaire.

### **III. REMEDIAL ACTION/SANCTIONS**

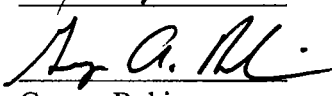
84. RJFS neither admits nor denies the Division's investigative findings and conclusions, but consents to the Division entering an Order requiring RJFS to pay a fine of \$100,000 within (30) days of entry of this Order.
85. RJFS has represented to the Division that RJFS undertook and completed major revisions to its overall compliance system, including its written policies and procedures. RJFS has represented further that the manner in which many of the issues addressed in this Order is handled today under new systems, policies and procedures differs significantly from the manner in which they were handled or supposed to be handled under the systems, policies

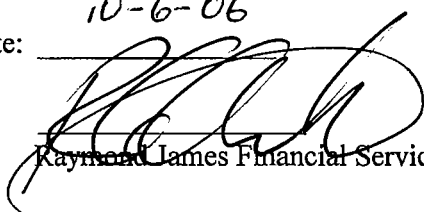
and procedures in place at the time the events described herein are alleged to have occurred.

#### **IV. FINAL RESOLUTION**

86. RJFS acknowledges that this Order, upon approval by the Division Director and Securities Advisory Board shall be the final compromise and settlement of this matter. RJFS further acknowledges that if the Division Director and Securities Advisory Board do not accept the terms of the Order, it shall be deemed null and void and without any force or effect whatsoever.
87. RJFS acknowledges that the Order does not affect any civil or arbitration causes of action that third-parties may have against RJFS arising in whole or in part from RJFS's actions, and that the Order does not affect any criminal cause of action that a prosecutor might bring.
88. This Order constitutes the entire agreement between the parties herein and supersedes and cancels any and all prior negotiations, representations, understandings, or agreements between the parties. There are no verbal agreements which modify, interpret, construe, or otherwise affect this Order in any way.

Utah Division of Securities

Date: 10/12/06  
By:   
George Robison  
Director of Licensing

Date: 10-6-06  
By:   
Raymond James Financial Services Inc.

Approved:

Laurie Noda

Laurie L. Noda

Assistant Attorney General

Approved:

Philip A. Feigin

Philip A. Feigin

Rothgerber Johnson & Lyons LLP

Counsel for Raymond James Financial Services Inc.

**ORDER**

IT IS HEREBY ORDERED THAT:

1. The Division has made a sufficient showing of Findings of Fact and Conclusions of Law to form a basis for this settlement.
2. RJFS pay a fine of \$100,000 within (30) days of entry of this Order.
3. RJFS will comply with the requirements of the Utah Uniform Securities Act in all future business in this state.

DATED this 16<sup>th</sup> day of October 2006.

Wayne Klein

WAYNE KLEIN

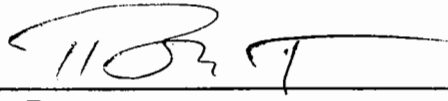
Director, Utah Division of Securities

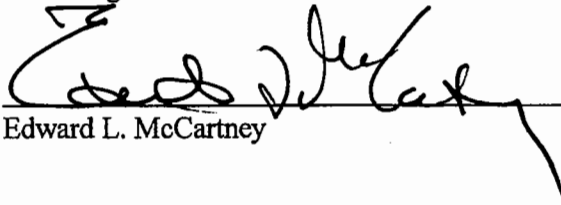


**BY THE UTAH SECURITIES ADVISORY BOARD:**

The foregoing Order is hereby accepted, confirmed and approved by the Utah Securities  
Advisory Board.


DATED this 16<sup>th</sup> day of October, 2006.

  
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Tim Bangerter

  
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Edward L. McCartney

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Laura Polacheck

  
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Mark Pugsley

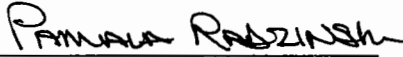
  
\_\_\_\_\_  
Craig Skidmore

**Certificate of Mailing**

I certify that on the 17<sup>th</sup> day of OCTOBER, 2006, I mailed a true and correct copy of the Stipulation and Consent Order to:

**Raymond James Financial Services, Inc.  
Attn: Mary Haas  
880 Carillon Parkway  
St. Petersburg, FL 33716**

**Philip A. Feigin, Esq.  
Rothgerber Johnson & Lyons LLP  
One Tabor Center, Suite 3000  
1200 Seventeenth Street  
Denver, CO 80202-5855  
Attorney for Raymond James Financial Services, Inc.**

  
Executive Secretary